UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

ESTATE OF ERIC RIVERA, by and through successors in interest, PHILLIP MALIK and VALERIE RIVERA; PHILLIP MALIK, individually; VALERIE RIVERA, individually,

Plaintiffs,

vs. Case No. 2:17-CV 06939-CBM

CITY OF LOS ANGELES; LOS ANGELES POLICE DEPARTMENT; ARTURO URRUTIA; DANIEL RAMIREZ, and DOES 1 to 10,

Defendants.

VIDEOTAPED DEPOSITION OF DANIEL RAMIREZ

Long Beach, California

Thursday, December 27, 2018

Reported by: Gina Anne George
CSR No. 11260
LitiCourt Job No.: 201467

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Defendants.

VIDEOTAPED DEPOSITION OF DANIEL RAMIREZ,

taken on behalf of the plaintiffs at 3777 Long Beach Boulevard, Third Floor, Long Beach, California, beginning at 2:43 p.m., and ending at 5:57 p.m. on Thursday, December 27, 2018 before Gina Anne George, Certified Shorthand Reporter No. 11260.

APPEARANCES:

FOR THE PLAINTIFFS:

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ALSO PRESENT:

CRAIG SCHUMACHER, The Videographer
PHILIP MALIK
VALERIE RIVERA
ANDRES MARTINEZ
ARTURO URRUTIA
BRADLEY HEARN
MARC STERNIN
JAMES TALMAGE
BRIAN HUN

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EXHIBITS

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Exhibit 14 Marked and indexed in the confidential portion of the transcript (Confidential) 52

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Exhibit 16 Marked and indexed in the confidential portion of the transcript (Confidential) 63

Exhibit 17 Color copy of photograph (Confidential) 120

The information contained on pages 44 to 57, 62 to 115 and 121 to 162 has been designated as confidential and those pages are bound separately.

Exhibits 13, 15 and 17 were marked in the non-designated portion of the transcript but have been designated as confidential and are bound with the confidential portion of the transcript.

QUESTIONS NOT ANSWERED

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LONG BEACH CALIFORNIA;
THURSDAY, DECEMBER 27, 2018, 2:43 P.M.

* * *

THE VIDEOGRAPHER: Good afternoon. We are on the record at 2:43 p.m., December 27th, 2018 for the videotaped deposition of Daniel Ramirez.

We are taping this deposition at 3777 Long Beach Boulevard in Long Beach, California, in the action entitled Estate of Eric Rivera, et al. versus City of Los Angeles, et al., case No. 217CV06939CBM.

My name is Craig Schumacher. I'm the video production specialist from LitiCourt Corporation located in El Segundo, California. This is DVD No. 1 of volume I.

Would counsel and all present please identify yourselves for the record.

MR. CASILLAS: Good afternoon, Mr. Videographer. My name Arnoldo Casillas, attorney here for the plaintiffs. I'm accompanied by both Plaintiffs Ms. Valerie Rivera and Mr. Philip Malik.

MR. BRENTE: Good afternoon. I'm Cory Brente, attorney for the City of Los Angeles and

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Officers Ramirez and Urrutia. Also present are Officer Urrutia, Officer Andres Martinez, Detective Brian Hun, Officer Marc Sternin, and Sergeant Bradley Hearn.

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DANIEL RAMIREZ,
having been first duly placed under oath by the reporter, was examined and testified as follows:

EXAMINATION

BY MR. CASILLAS:

Q Sir, for the record, your full name and would you spell it.

A Sure. First name is Daniel, D-a-n-i-e-l, middle name is C.R., and the last name is Ramirez R-a-m-i-r-e-z.

Q Are you currently employed?

A Yes.

Q And who do you work for?

A The City of Los Angeles.

Q How long have you worked for the LAPD?

A Approximately nine years, seven months.

Q And currently what's your assignment?

A I'm assigned to south bureau ATF federal task force.

Q And before today have you ever participated in a proceeding like this, a deposition?

A Yes.

Q Okay. How many times have you been deposed --

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A One.

Q -- before today?

A Once.

Q Was that as a witness? First of all, was it in the course and scope of your employment with the Los Angeles Police Department?

A Yes.

Q Okay. And were you deposed as a witness or as a party?

A As a witness.

Q Okay. And did it relate to an incident where you were being sued?

A No.

Q And have you been sued in your capacity as a police officer of the LAPD?

A Yes.

Q On how many occasions?

A Once prior.

Q And was that when you were deposed?

A No.

Q And that prior lawsuit, what was the nature of the allegations against you?

A Against myself, it was going to be excessive force.

Q And did that involve the use of a firearm?

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A No.
Q And did that -- do you know if that lawsuit was in state court or in federal court?
A It went to federal court.
Q And do you know if that case went to trial?
A No, it did not.
Q And do you remember how long ago it was that -- and by the way, is that lawsuit still pending?
A No, sir.
Q And did it resolve somehow?
A Yes, it did.
Q And you were notified of its resolution?
A Yes.
Q And when was it that you learned of its resolution?
A I want to say approximately two years ago.
Q A deposition is a formal question and answer session, much like you probably experienced testifying as a police officer in court. There's a court reporter to my right and a court reporter to your left. She's taking everything down word for word. We also have the benefit of a videographer and your testimony is being recorded by videotape and it's going to be synchronized to a transcript, and in

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the case of this case going to trial, we may take sections of your transcript along with the related video and play that for the jury.
Do you understand that?
A Yes, sir.
Q Okay. To make sure that we have the most accurate testimony possible, I'm going to ask that we follow a few grounds rules. You're probably familiar with them since you sat through at least three depositions here in this case, but I'll repeat them nonetheless.
When we're sitting here together face-to-face we often communicate nonverbally, shrug your shoulders, nod your head, uh-huh, huh-uh. Even though we have it on videotape, sometimes it's a bit vague.
Would you agree to answer all the questions verbally?
A Yes, sir.
Q If there's a question you don't understand, would you tell me?
A Yes, sir.
Q If there's a term that I use or a phrase that I use that you don't understand, would you tell me?

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A Yes, sir.
Q And I may ask you to give me an estimate, a distance between two points, the time that elapsed between two moments in time or some other things.
Are you comfortable with the distinction between a guess and an estimate?
A Yes.
Q Okay. Now, during the deposition Mr. Brente will make objections. Please listen to them. He may ask you not or order you -- instruct you rather not to answer the question.
So would you make sure that you let him express his full objection before you answer?
A Yes, sir.
Q If he doesn't instruct you to refrain from answering, would you agree to answer the question if you understand it?
A Yes.
Q Okay. Now, if you answer the question, I'm going to assume that you heard it, I'm going to assume that understood it, and I'm going to assume that the answer you give is the best possible answer you could give today.
Is that fair?
A Yes, sir.

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Q Is there anything that is going on with you that in any way is going to affect your ability to testify truthfully today?
A No, sir.
Q Okay. Your current assignment I think you said -- well, let me ask you, what is your current assignment with the LAPD?
A I work operations south bureau ATF, federal task force.
Q And how long have you had that assignment?
A I've been there now for approximately nine months.
Q And before that what did you do?
A I worked Harbor patrol.
Q How long did you have that assignment?
A I was there for approximately nine months.
Q And was that when the incident with Eric Rivera occurred?
A Yes, sir.
Q Okay. And before Harbor where were you?
A I was assigned to Pacific division.
Q How long were you there?
A I was there approximately five years.
Q What did you do at Pacific generally?
A In the course of being at Pacific, I worked

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patrol, I worked the Venice Beach task force, and I worked Pacific gang unit.

Q Are you a P-III?

A No.

Q And you're not a P-I obviously?

A No, sir.

Q Other than the task force, the ATF task force, during your entire career with the LAPD, have you ever been assigned to any special unit or special task force?

A No, sir.

Q How old are you today?

A I am -- I am 31.

Q You were telling me about working the Venice task force and out in that division. Before you did that, where were you assigned?

MR. BRENTE: So it's not a Venice task force. I think he said the Venice Beach detail.

BY MR. CASILLAS:

Q Before that assignment, where were you assigned?

A Pacific division patrol.

Q And how long were you there?

A Approximately two years.

Q Before that what was your assignment?

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A Before Pacific division, I was assigned jail division.

Q How long did you work jails?

A I was there approximately one year.

Q Before that were you in the academy?

A No, sir.

Q Before you were at jails, where were you?

A I was assigned to Wilshire division.

Q And how long were you there?

A Approximately one year.

Q And what was your assignment?

A Patrol.

Q How long -- and before that assignment, where did you work?

A I was in the academy, sir.

Q Do you remember your training at the academy?

MR. BRENTE: I'll just object as vague and overly broad.

But you can answer.

THE WITNESS: Could you be more a little specific? There were many topics.

BY MR. CASILLAS:

Q Yes, there were.

At the academy I understand that they

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usually teach police officers the roles regarding the use of deadly force.

Was that the case with you at the academy?

A That was one of the topics, yes, sir.

Q And have you ever been an FTO, by the way, since leaving the academy?

A No, sir.

Q Have you ever been assigned any position with the LAPD where it is your responsibility fully or in part to train other officers?

A No, sir.

Q Prior to June of 2017 had you ever met Eric Rivera?

A No, sir.

Q Have you ever been present anywhere where you knew he was present?

A I'm sorry. Can you repeat it?

Q Did you have any contact with Eric Rivera at all that you know of --

A No.

Q -- prior to the incident where you -- and by the way, you did shoot him --

A Yes, sir.

Q -- as far as you know?

A Yes, sir, I did fire.

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Q How many times did you fire?

A I fired seven rounds.

Q And without telling me where you learned this, did you eventually learn that one or more of the seven rounds that you fired struck Eric Rivera?

MR. BRENTE: So my objection and my instructions, if you know whether or not any of your rounds struck Eric Rivera from any source other than one of your lawyers, then please answer counsel's question. If the only way you know the answer to the question is through communications through one of your lawyers, you're going to have to tell him I can't answer your question.

THE WITNESS: I did not know. I learned that information with my attorney.

BY MR. CASILLAS:

Q When you shot at Eric Rivera, were you shooting at center of mass?

A Yes, sir.

Q Now, at the academy -- and by the way, before going to the academy, did you work for any other law enforcement agency?

A Yes, sir.

Q And which one was that?

A I used to work for the Torrance Police

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Department.
Q And how long did you work for Torrance?
A Approximately three years.
Q And did the Torrance Police Department have its own academy?
A No.
Q Were you a sworn peace officer for the Torrance Police Department before you went to the LAPD?
A No, sir.
Q What was the position that you held with the Torrance Police Department before coming to the LAPD?
A I was a paid intern during college.
Q And after high school did you go to the military?
A No, sir.
Q You went to college?
A Yes, sir.
Q Which college did you attend?
MR. BRENTE: So I'm going to object, so I'm going to instruct him not to answer; that calls for confidential peace officer personnel record information, it's not likely to lead to the discovery of relevant or admissible evidence and violates his right to privacy.

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Don't answer.
BY MR. CASILLAS:
Q Did you obtain a degree?
A Yes, sir.
Q And what field was that degree in?
A That was in administration of justice.
Q And what sort of degree was it? Was it an A.A., a B.A., a B.S., a master's? What was it?
A It was an A.S.
Q And did you complete that education before starting with the LAPD?
A Yes, sir.
Q Since then, had you secured any other degree?
A No, sir.
Q At the academy were you instructed as to the use of deadly force?
A In the academy, yes, I was instructed.
Q And on June 6th, by the way, you were armed with a firearm. Yes?
A That's correct.
Q And what was that firearm?
A It's a Glock 22, 40-caliber.
Q Issued by the LAPD?
A Yes, sir.

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Q And did you have a backup gun?
A Yes, sir.
Q Okay. And what sort of -- what was your backup gun?
A It's going to be a Smith & Wesson, 38 caliber five-shot revolver.
Q And did you keep it in a leg holster or some other holster?
MR. BRENTE: Okay. So I'm going to object and I'm going to instruct him not to answer for officer safety reasons. I think as you know in this case the only weapon that Officer Ramirez used was his duty pistol. I have concerns about his safety. I don't want him to disclose where he carries his backup weapon, and it's not relevant to these proceedings, so I'm going to instruct him not to answer that.
BY MR. CASILLAS:
Q Did you fire your backup weapon at Mr. Rivera on June 6, 2017?
A No, sir.
Q In preparing for today's deposition did you review any materials?
A Yes, sir.
Q What did you review?

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A I reviewed my FID statement, my body-worn video and photographs.
Q What photographs -- the photographs that you reviewed, do you remember approximately how many they were?
A No, sir, I couldn't tell you.
Q And what did the photographs depict? What were they photographs of?
A From that night -- well, I don't know if I could advise it because those were with my -- I reviewed with my attorney.
MR. BRENTE: That's okay. You can tell him what photos and what you remember about the photos you saw.
MR. CASILLAS: And you should know if there's anything that even remotely approaches being privileged, he'll chime in.
Okay?
MR. BRENTE: But you can always ask if you're unsure.
MR. CASILLAS: Okay. Anyway.
THE WITNESS: On that, sir, I reviewed photos that depicted possibly where I was standing when the incident took place and possibly where Eric Rivera was standing at the time of the incident.

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BY MR. CASILLAS:
Q Were you present when those photographs were taken?
A No, sir.
Q Do you remember participating in a walkthrough sometime after -- a walkthrough of the shooting with individuals from FID?
A Yes, sir.
Q And when you participated in that walkthrough, what was your role?
A Could you be more specific to your question?
Q Sure. We'll get to that in a second. Before we get there -- anyway, you looked at the photographs depicting where you may have stood and where Mr. Rivera may have stood.
What other photographs did you look at?
MR. BRENTE: Okay. So there's a transcript. So now you're going back to documents he reviewed before he prepared -- before he came to the deposition.
MR. CASILLAS: Yes.
MR. BRENTE: Okay.
THE WITNESS: There was also autopsy photographs.
BY MR. CASILLAS:

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Q And did they depict the gunshot wound suffered by Mr. Eric Rivera?
A Some of the photos did.
Q And to the extent you could recall, which photographs -- what was depicted specifically in the photographs from the autopsy that you reviewed?
A That made me believe it was a gunshot wound or...
Q Well, I -- I don't know what it was that you reviewed.
And I think you indicated to me that some of photographs appeared to be of where Mr. Rivera may have been shot; is that true?
A Yes, sir.
Q And what did those photographs depict as you can recall?
A It depicted his bare skin, no clothing, and it appeared that he had what appeared to be an entry wound, bigger than a puncture on his right side.
Q Right side of his torso? Right side of his leg?
A It's going to be his -- I want to say right hip, right thigh.
Q And at all of the times -- and I think you said you shot seven times.

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A Yes, sir.
MR. BRENTE: Are you asking what he knows now or what he remembered from that night?
BY MR. CASILLAS:
Q Do you remember shooting seven rounds the night of the shooting?
A From my FID statement, yes, I did.
Q And when you shot the first shot until you shot the last shot, how much time elapsed, your best estimate?
A Approximately two to three seconds.
Q And you fired in quick succession.
A I fired continually, yes.
Q And were you -- were those -- was each one of those shots intentionally fired?
A Yes, sir.
Q Was each one of those shots aimed?
A Yes, sir.
Q And do you know if -- and for each one of those shots, were you shooting at the front part of Mr. Rivera's body?
A I was aiming for center mass of his chest.
Q And now I want to take you back just to round out this center of mass issue.
When you were instructed about deadly force

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at the academy, you actually had firearms training, correct?
A Yes, sir.
Q And you learned the rules or rather the policies of the LAPD that then existed about when you could fire -- well, when you could use deadly force in the form of a firearm at a suspect, yes?
A Yes, sir.
Q And do you remember what the -- those rules or those policies were when you learned them?
A Yes, sir.
Q And what are they or were they?
A The first one is to protect myself or others --
Q Right.
A -- from serious bodily injury or death. The second one is to prevent the suspect's actions from placing others in serious bodily injury or death, and the last one is to prevent -- to prevent a violent, fleeing felon or if actions are delayed, the continuous act of serious bodily injury or death will continue if apprehension is delayed.
Q And in all of those instances, you were taught if you were going to use a firearm to shoot at center of mass. Yes? To the extent possible, how's

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that?
A Yes, sir.
Q Okay. And when you fired at Mr. Rivera, do you remember what was the distance between you and him when you fired your first shot?
A Mr. Casillas, are you referring to what I perceived that night or what I know now after the fact?
Q That night what did you perceive or what did you believe rather?
A 20 feet.
Q And did you later learn that that was not correct?
A Yes, sir.
Q And what appears to be the distance between you and Mr. Rivera when you shot as you now know it?
A 37 feet.
Q And do you question that? Does that appear to be accurate to you, 37 feet?
A I couldn't tell you.
Q At the academy do you remember the training about shooting at center of mass?
MR. BRENTE: Objection; vague and ambiguous.
You can answer if you understand.
THE WITNESS: You have to be more specific.

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I don't understand.
BY MR. CASILLAS:
Q I think you told me they taught you that if you're going to use deadly force in the form of a firearm, you were to shoot at center of mass, correct?
A Specifically I don't remember that.
Q Okay.
A But in all our qualifications you train to shoot at center of body.
Q And do you know why that is?
A Not through our department.
Q Yeah. Well, let me ask you this. Is it your understanding that shooting at center of mass is likely to stop the person that you're shooting at?
A Yes.
Q Okay. And do you understand that center of mass is where vital organs are such that shooting at center of mass is more likely to stop them?
A Yes, sir.
Q Okay. And do you also understand that if you are successful in hitting center of mass, that you're going to hit organs to stop them and that you may also cause death?
A It is possible, yes.

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Q And do you also understand that -- I asked Mr. Urrutia the question about the sanctity of life. Do you remember in any of the training you received from the LAPD that subject coming up, the sanctity of life?
MR. BRENTE: Do you mean that concept?
MR. CASILLAS: Yes, that term, however it is that it may have been explained to you.
THE WITNESS: It's a different term.
BY MR. CASILLAS:
Q What is the term that you remember?
A It's preservation of life is the term used by our department.
Q And when did you first learn that term in your training?
A I'm sorry. I couldn't tell you. It was early in my career.
Q All right. And was it ever reinforced with you later in your career after you first learned it?
MR. BRENTE: Objection; vague and ambiguous reinforced.
You can answer if you understand.
THE WITNESS: I'm sorry. I don't.
BY MR. CASILLAS:
Q Do you understand the meaning of reinforced,

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the definition?
A Yes.
Q Okay. What does it mean to you?
A To make a point stronger or make something stronger.
Q And after you learned the -- this concept or term preservation of life at the academy, was it reinforced later on in your work as a police officer for the LAPD?
A I'm sorry, sir. I couldn't tell you that.
Q Okay. And do you remember the word -- the concept of life being precious ever discussed with you in your training as to the use of force?
MR. BRENTE: I'll just object. Are you asking about those words, those exact words precious? Is that what you're asking, was the word precious used?
Was the word precious used?
THE WITNESS: No.
BY MR. CASILLAS:
Q Okay. Was the -- I used sanctity, but the -- do you remember if any of the policies of the LAPD used the term the sanctity of life or the preciousness of life?
A I cannot think of one, sir, no.

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Q Okay. As part of your training with the LAPD, was there any discussion about the constitutional limits of deadly force?
A In regards to?
Q The use of a firearm against somebody.
A Could you be more specific? I'm sorry.
Q Sure. In any of the training at the academy -- and by the way, at the academy, I understand that there are basically two types of training in a general sense. The first was I'll call classroom type training where you study materials and you actually have lectures.
Do you remember that there was that component?
A Yes, sir.
Q Okay. And then there's a more active or hands-on part of the training where you learn certain -- kind of like perishable skills, how to shoot a firearm, self-defense, how to drive a vehicle.
Do you remember that component of your training at the academy, also?
A Yes, sir.
Q Now, during the lecture part or the classroom part of your education at the academy, do

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you remember any conversations about the fourth amendment and the restrictions that it imposed upon police officers in the use of deadly force?
A The fourth amendment was discussed. In regards to the use of deadly force, I do not remember.
Q Okay. Do you remember any discussions about any restrictions or limits upon the use of deadly force?
MR. BRENTE: I'm going to object as vague and ambiguous and asked and answered.
BY MR. CASILLAS:
Q You can answer.
A In regards to that matter, it would have to fall under the three categories that I mentioned earlier as far as using deadly force.
Q And do you remember learning that, to the extent you were going to be using deadly force, it had to be reasonable considering the totality of the circumstances you were then encountering?
A It did have to be objectively reasonable.
Q What did that mean to you?
A What was perceived at the time at the use of deadly force.
Q And the term objective, what did that mean

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to you?
A In that regards, if another officer with the same training and experience that I had would objectively done the same thing that I did, put in certain circumstances.
Q So it took it out of your own perceptions and more in a general perception that a reasonably trained officer similarly situated would do the same thing. Yes?
A Objectively, yes.
Q Okay. In the academy and afterwards until the time you shot at Eric Rivera, do you remember there being any discussions while you were present at work with the LAPD regarding toy guns out in the community?
A In regards to that, there is no LD training as far as distinguishing a real or a fake gun. In regards to training, there are training bulletins that do advise as officers that suspects have altered fake -- fake items to resemble a firearm or actually contain a firearm or firearms that are -- actually appear to be real, but that are fake, that and altered, but there is no training as far as this is a real gun, this is a fake gun.
We use more the totality of circumstances at

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the time, was there a radio call, did they describe this man had a gun, is it proper lighting, is it daytime, is it nighttime, things along that nature.
Q And were you ever shown any toy guns that -- for example, do you know what an airsoft gun is?
A Yes, sir.
Q Was there ever any discussions about airsoft guns in any of the -- first of all, at the academy?
A I want to say there was a discussion. Honestly, it was so long ago, I couldn't tell you.
Q Were there warnings about kids using airsoft guns or toy guns?
MR. BRENTE: I'll just object as vague and ambiguous and overly broad.
But you can answer.
THE WITNESS: Yes, I do remember that topic.
BY MR. CASILLAS:
Q And was that at the academy?
A Yes, sir.
Q Was that subject discussed or reinforced in subsequent trainings at briefings, for example? Do you remember ever that coming up at a briefing?
A Outside of the academy, I do not remember.
Q Let's make sure. Outside of the academy you don't remember the subject of the toy guns coming up,

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correct?
A The subject of toy guns did come up in those training bulletins I just advised of. As far as recognizing a toy gun, no, there was no training.
MR. CASILLAS: I'm going to identify as an exhibit the next exhibit in order, which is going to be Exhibit No. 12 and let me hand that to you.
(Plaintiffs' Exhibit 12 was marked.)
BY MR. CASILLAS:
Q In any of training bulletins was there -- do you remember there ever being any discussion of water pistols?
MR. BRENTE: I'll just object as vague and ambiguous and overly broad.
THE WITNESS: Could you be more specific?
BY MR. CASILLAS:
Q Sure. Was it ever discussed in any way, shape, or form at summertime -- for example, you know summertime, you know, kids have water guns, kids have, you know, squirter type devices? Was there ever any discussion in any of the briefings, any of the material you received at briefings that you remember?
MR. BRENTE: Okay. So I'm going to object to the question and I'll have to instruct him not to

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answer because the beginning of the question had some editorial comments by yourself that are not appropriately part of the question, so you have to rephrase the question.
BY MR. CASILLAS:
Q Looking at Exhibit No. 12. We'll mark the toy gun as the next exhibit in order. Thank you. It's going to be Exhibit No. 12.
Okay. It appears to be a water gun. Yes?
A Yes.
MR. BRENTE: From his examination here?
BY MR. CASILLAS:
Q Yes.
A From an up close and personal look at it, it does seem to be a water pistol.
Q And what about it tells you it's a water pistol?
A In looking inside the mechanics, I don't see a firing pin. I don't see a proper barrel, barreling of the firearm. I don't see a magazine well where you can insert ammunition into a magazine to properly function and fire.
Q What about its general appearance, does it look toy-like to you?
A From up close and personal, me being one

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foot away from it in proper lighting, it does look like a water pistol.
Q And it looks like a toy gun, doesn't it?
A Like a toy gun.
Q And does the configuration, maybe the shape of it appear to give you the impression that it is a toy gun?
A No.
Q No. As you look at it here today, you clearly wouldn't mistake that for a real gun, would you?
MR. BRENTE: What do you mean, sitting in this room right now?
BY MR. CASILLAS:
Q Yes.
A I wouldn't mistake it for a real gun.
MR. BRENTE: Sitting here right now looking at it in this room.
THE WITNESS: As of right now looking -- like I said, in the proper lighting, being up close and personal one foot away from it, you could tell and as I'm looking inside, it is not a firearm.
BY MR. CASILLAS:
Q Is the coloring of it, the clear plastic coloring of it relevant to you in determining that it

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is not a real gun?
A No. Well, how I determined that is due to it being clear, I could look inside and see the mechanics.
MR. CASILLAS: Speaking of some of the mechanics, I forgot to do some of the mechanics. We were talking about the items that you reviewed in getting ready for today's deposition. Just get a couple of them out of the way.
The next exhibit in order is going to be Exhibit 13. I'm going to show that to you. It appears to be a transcript of a statement you gave to the investigator from FID Ms. Arzate.
(Plaintiffs' Exhibit 13 was marked.)
BY MR. CASILLAS:
Q Is that a copy of the transcript that you reviewed before coming here today?
A May I please have one moment to review?
MR. CASILLAS: You can take all the time you want. In fact, we're going to take a five-minute break.
All right?
MR. BRENTE: Okay.
THE VIDEOGRAPHER: Off the record, 3:18.
(Recess taken.)

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THE VIDEOGRAPHER: Back on the record, 3:28.
BY MR. CASILLAS:
Q Does that appear to be the transcript of the statement that you gave to FID after the shooting?
A Yes, sir.
Q Other than the statement you gave to FID and excluding any statement that you gave to your attorneys, have you given any other statements regarding the facts and circumstances of your shooting Eric Rivera?
A As far as?
Q Any other statement.
A Legal documents?
Q Well, just a verbal statement.
You gave one to FID, correct?
A Uh-huh.
Q Okay. Did you give any other statements?
MR. BRENTE: Were you interviewed by anybody else?
THE WITNESS: No.
BY MR. CASILLAS:
Q Does that appear to accurately reflect, first of all, what you remember telling FID?
A From what I perceived, yes.
Q And do you remember -- is it safe to say

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that when you -- let me just check here. You gave the statement on June 7th at about 04:13 hours. Yes?
A Yes.
Q 4:00 in the morning the following day?
A Yes, sir.
Q It had been less than six hours since you shot at Eric Rivera, correct?
A A little over six hours, yes, sir.
Q A little over six hours.
And when you gave the statement, did you have a good recollection of what had happened?
A Yes, sir.
Q And you yourself by that point had already talked to an attorney, correct?
A Yes, sir.
Q Had you seen your body cam footage by that point?
A Yes, sir.
Q And how many times had you reviewed your body cam footage before you gave a statement to FID?
A One time.
Q Okay. In giving the statement to FID, were you truthful?
A Yes.
Q Did you attempt to exaggerate any fact?

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A No, sir.
Q Did you attempt to demission -- demission? -- diminish or lessen the significance of any fact or circumstance?
A No, sir.
Q Do you know what it means to be forthcoming?
A No, sir. Can you give me the definition?
Q No, that's all right.
Did you intend to hide anything from FID?
A No, sir.
Q And you understood you were being recorded?
A Yes, sir.
Q After looking at the statement that you have there in front of you and reading it a few times that you have, is there anything about that that as you sit here today is not accurate?
A From my statement? That's what I perceived that night, so everything in that statement is what I perceived that night. There are facts that I know now after speaking with my attorney and different procedures that were completed, that there are some inaccuracies to the FID statement.
Q And you say what you perceived, and when you say you perceived, you saw certain things, correct?
A From that night, yes, sir.

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Q For example, you saw that Eric Rivera had something in his left hand, correct?
A Yes, sir.
Q That's what you saw. Yes?
A Yes, sir.
Q And you saw Eric Rivera turn clockwise when you first encountered him on the sidewalk, correct?
A When I first encountered him, sir, he was to the right of our vehicle on the sidewalk.
Q Continued down the sidewalk, stopped and turned towards you, correct?
A Turned over his right shoulder --
Q Okay.
A -- in a clockwise motion.
Q And stopped and faced you, correct?
MR. BRENTE: Objection; vague as to time.
THE WITNESS: Could you be more specific as far as when he stopped?
BY MR. CASILLAS:
Q Did he stop more than once?
A As far as from what I perceived from that night --
Q Yeah.
A -- when we actually made the determination to stop him --

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Q Yes.
A -- as I'm making that right turn to give us -- to give me and my partner more time to make that decision, my partner says, oh, shit, gun. Simultaneously as my partner is saying -- says that, I look at Mr. Rivera and he begins looking over his right shoulder. There's yelling going on as it's taking place.
Q And do you see him turn toward you?
A He turns over his shoulder, his right shoulder clockwise and he's looking towards me and my partner's vehicle at that time.
Q And he turns completely around to his right, correct?
MR. BRENTE: Are you asking him if that's what his perception was?
BY MR. CASILLAS:
Q I'm not asking perception. I'm asking that's what you saw, correct?
MR. BRENTE: But that has to be his perception. It can't be anything else other than that.
MR. CASILLAS: It certainly can be. If he doesn't remember -- Cory, I appreciate perception, but that is a magic mumbo jumbo word in my -- and

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that's a fancy legal term of art.
MR. BRENTE: No, it's not.
BY MR. CASILLAS:
Q My question is this, if he doesn't remember what he saw -- and I'll direct my comments to you, Mr. Rivera [sic]. I only want to see -- I only want to hear answers that relate to what you saw.
MR. BRENTE: And what he say.
BY MR. CASILLAS:
Q When we talk about Mr. Rivera whether he motioned, whether he grimaced, the expressions on his face, I only want to know what you remember seeing.
MR. BRENTE: Which is his perception.
BY MR. CASILLAS:
Q If it's anything other than seeing, I need you to let me know.
Is that understood?
A Yes.
Q Now -- and we're a little ahead of ourselves.
After reading the transcript of the statement that you gave to FID, is there anything as you sit here today that you want to change?
MR. BRENTE: Okay. So two things: one is it looks like it's been marked as Exhibit 13, so it's

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going to be under seal.
MR. CASILLAS: Yes.
MR. BRENTE: And so if you want to ask him questions about his FID statement, you'll have to go under seal.
MR. CASILLAS: We'll do that. We're under seal now.
MR. BRENTE: Okay.
(Whereupon counsel agrees to go on the confidential portion of the transcript.)
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BY MR. CASILLAS:
Q Anyway, after the -- before giving your statement to FID I think you mentioned that you went out to the scene of the shooting and participated in an activity called a walkthrough. Yes?
A Yes, sir.
Q Okay. And did you do that willing?
A No.
Q They forced you to go, correct?
A I was compelled, yes.
Q And were you -- when you went out there, were you asked questions?
A Yes.
Q By the folks from FID?
A Yes, sir.
Q When I say the folks by FID, to be a little bit more formal, by the investigators that were investigating the shooting, correct?
A Yes, sir.
Q And did you know that you had to be truthful with them?
A Yes, sir.
Q And were you truthful with them?
A Yes, sir.
Q Did you know that the district attorney's

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office would be using the investigation to make a decision as to whether or not to prosecute you for a homicide?

A I do know that from prior instances.

Q And potentially a murder, for example, yes?

A I do know that. I learned it in school. It's 196 PC, justifiable homicide.

Q So the investigation they were doing was a homicide investigation, and you were aware that that could result in you being prosecuted for that homicide, correct?

MR. BRENTE: I'm going to object that assumes a fact not in evidence, lacks foundation, calls for speculation.

You can answer.

THE WITNESS: I realize that it can be used against me.

BY MR. CASILLAS:

Q Did they ask you to position -- well, did they ask you where it was that Mr. Rivera was standing when you fired?

A Yes.

Q Did they ask you to position your patrol car at the time that you fired?

A No. They didn't want to move the patrol

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vehicle.

Q I'm sorry.

A They did not want to move the patrol vehicle, so it could not be moved.

Q Now, was -- were there any photographs being taken that night during the walkthrough?

A There was a photographer there. I couldn't honestly tell you at this moment if there were photographs taken. I don't remember.

Q I understand that later at some point after your walkthrough and at some point after you gave your statements to FID, there was a recreation conducted by the LAPD.

Were you aware of that?

A No, sir.

Q Were you asked to participate in a recreation at some point after you gave a statement to FID?

A No, sir.

MR. CASILLAS: I want to show you a photograph. It's marked -- it's Bates-stamped No. 1007. We're going to identify as the next exhibit in order, which is going to be Exhibit No. 15.

(Plaintiffs' Exhibit 15 was marked.)

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BY MR. CASILLAS:

Q Do you know what's depicted in that photograph?

MR. BRENTE: Okay. So this photo looks likes it was produced subject to a protective order, so if you want to ask him questions about it, you have to go under seal.

MR. CASILLAS: We'll do that.

MR. BRENTE: Okay. Go ahead.

(Whereupon counsel agree to go on the confidential portion of the transcript.)

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BY MR. CASILLAS:

Q You know what alley lights are?

A Alley lights, yes, sir.

Q What are alley lights?

A Alley lights are lights on the light bar that are on the driver's side and passenger side that illuminate -- or that shine a light left or right of the vehicle. It's a clear light.

Q And were you -- did you activate your alley lights that night?

A No, sir. Oh, I'm sorry. As far as for that incident?

Q Yes.

A I don't believe I did.

Q And do you know how it is that you activate your alley lights there on the control panel of the vehicle?

A Yes, sir. You have to hit -- push a button.

Q Do you remember doing that?

A I don't remember, sir.

Q By this point where you had now encountered Mr. Rivera walking south on the sidewalk, do you remember looking to see if there was anybody else on the south sidewalk?

A Mr. Rivera was the first person I saw --

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Q Right.
A -- on Wilmington Boulevard.
Q And did you look to see if there was anybody else -- after seeing Mr. Rivera, did you look to see if there was anybody else in his vicinity?
A I did not see anyone in his general vicinity.
Q And to make sure that I understand your answer, you actually did look, correct?
A As I was actively searching for Mr. Rivera, I was scanning left and right on Wilmington Boulevard and as a result, I did not see anyone in his general vicinity.
Q And I mentioned that gentleman walking his dog.
You don't remember ever seeing a gentleman on the west sidewalk waking his dog southbound behind Mr. Rivera, correct?
MR. BRENTE: I'll just object to the form of the question. You can ask him if ever remember seeing anybody walking a dog.
BY MR. CASILLAS:
Q You can answer the question.
A No, sir, I don't honestly remember there being someone, because if there was, it would have

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been addressed in some manner.
Q Unless you missed it, right?
A Possibly.
Q Yeah, I mean, that is certainly a possibility. Yes?
A I didn't see anyone, but...
Q Could you have missed him in that scanning that you were doing -- that active scanning that you were doing, could you have missed him?
A Highly doubtful.
Q Why do you say that?
A Because as I said prior to just now, that would have been addressed.
Q I don't know what you mean.
A As far as that is concerned, if he resembled the suspect, I would have looked at him or -- and I'm sorry. Any person that was basically walking towards Anaheim, I would look at him, assess is that -- do they match the description of the call, and based on that, I would make a response to that. Like, will I stop this person?
So as a result, I don't remember ever seeing anyone, other than Mr. Rivera, because I would have addressed it.
Q So I want to make sure I understand it. It

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isn't that you saw somebody there and ruled him out as the subject, you just never saw anybody there other than Mr. Rivera on the west sidewalk going south, correct?
A Correct, sir.
Q You didn't see any other middle-aged Hispanic man walking south on the sidewalk behind Mr. Rivera, did you?
A No, sir.
Q And if he was there, you missed him, correct?
A If he was there.
Q After the shooting, did you see anybody run across the street from the west sidewalk to the east sidewalk?
A Honestly, sir, I don't remember.
Q Okay. Do you remember the general location of your vehicle when it came to a stop before you exited it?
A Yes, sir.
MR. CASILLAS: I have a photograph that was provided to us by the city attorney's office with respect that location. I want to show it to you. I'm going to label it as the next in order I believe is No. 17.

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(Plaintiffs' Exhibit 17 was marked.)
MR. BRENTE: So 17 will be under seal as well.
MR. CASILLAS: Yes.
(Whereupon counsel agreed to go on the confidential portion of the transcript.)
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STATE OF CALIFORNIA)
) ss:
COUNTY OF ORANGE)

I, GINA ANNE GEORGE, do hereby certify:

That I am a duly qualified Certified Shorthand Reporter, in and for the State of California, holder of certificate number 11260, which is in full force and effect and that I am authorized to administer oaths and affirmations;

That the foregoing deposition testimony of the herein named witness was taken before me at the time and place herein set forth;

That prior to being examined, the witness named in the foregoing deposition, was duly sworn or affirmed by me, to testify the truth, the whole truth, and nothing but the truth;

That the testimony of the witness and all objections made at the time of the examination were recorded stenographically by me, and were thereafter transcribed under my direction and supervision;

That the foregoing pages contain a full, true and accurate record of the portion of the proceedings and testimony which was not designated as confidential to the best of my skill and ability;

That prior to the completion of the foregoing deposition, review of the transcript was requested.

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I further certify that I am not a relative or employee or attorney or counsel of any of the parties, nor am I a relative or employee of such attorney or counsel, nor am I financially interested in the outcome of this action.

IN WITNESS WHEREOF, I have subscribed my name this ____ day of _____, ____.

_____

GINA ANNE GEORGE, CSR No. 11260

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PENALTY OF PERJURY CERTIFICATE

I hereby declare I am the witness in the above captioned matter; that I have read the foregoing transcript or that it has been read to me, and I know the contents thereof; that the transcript is true to my knowledge, except as to those matters which are herein stated upon my information or belief, and as to those matters, I believe them to be true; that I find the transcript to be a true and accurate transcription of the portion of my testimony which was not designated as confidential, with the following corrections, if any:

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on the ____ day of _____ 20___,

at _____, _____.
(City) (State)

_____

DANIEL RAMIREZ

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